

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.16222 Knowledge of violation; report to department; confidentiality of information; failure to make report; exception; identity of licensee or registrant making report; notice of criminal conviction or disciplinary action by another state.

Sec. 16222. (1) A licensee or registrant having knowledge that another licensee or registrant has committed a violation under section 16221 or article 7 or a rule promulgated under article 7 shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.

(2) Unless the licensee or registrant making the report otherwise agrees in writing, the identity of the licensee or registrant making the report shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

(3) A licensee or registrant shall notify the department of a criminal conviction or a disciplinary licensing or registration action taken by another state against the licensee or registrant within 30 days after the date of the conviction or action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 .

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.16244 Immunity from civil or criminal liability; physician-patient privilege inapplicable; confidentiality of information; disclosure; prohibition.

Sec. 16244. (1) A person, including a state or county health professional organization, a committee of the organization, or an employee or officer of the organization furnishing information to, or on behalf of, the organization, acting in good faith who makes a report; assists in originating, investigating, or preparing a report; or assists a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department in carrying out its duties under this article is immune from civil or criminal liability including, but not limited to, liability in a civil action for damages that might otherwise be incurred thereby and is protected under the whistleblowers' protection act, Act No. 469 of the Public Acts of 1980, being sections 15.361 to 15.369 of the Michigan Compiled Laws. A person making or assisting in making a report, or assisting a board or task force, a hearings examiner, the committee, or the department, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article or section 21513(e).

(2) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws, does not apply in an investigation or proceeding by a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department acting within the scope of its authorization. Unless expressly waived by the individual to whom the information pertains, the information obtained is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or task force, a disciplinary subcommittee, the committee, or the department. Except as otherwise provided in this subsection, a person shall not use or disseminate the information except pursuant to a valid court order.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;--Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;--Am. 1993, Act 79, Eff. Apr. 1, 1994 ;--Am. 1993, Act 87, Eff. Apr. 1, 1994 .

Compiler's Note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986." In the last sentence of subsection (1), the reference to "section 21513(e)" evidently should be to "section 20175 (5) to (7)."

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.20175 Maintaining record for each patient; wrongfully altering or destroying records; noncompliance; fine; licensing and certification records as public records; confidentiality; disclosure; report or notice of disciplinary action; information provided in report; nature and use of certain records, data, and knowledge.

Sec. 20175. (1) A health facility or agency shall keep and maintain a record for each patient including a full and complete record of tests and examinations performed, observations made, treatments provided, and in the case of a hospital, the purpose of hospitalization. In addition to the sanctions set forth in section 20165, a hospital that fails to comply with this subsection is subject to an administrative fine of \$10,000.00.

(2) A hospital shall take precautions to assure that the records required by subsection (1) are not wrongfully altered or destroyed. A hospital that fails to comply with this subsection is subject to an administrative fine of \$10,000.00.

(3) Unless otherwise provided by law, the licensing and certification records required by this article are public records.

(4) Departmental officers and employees shall respect the confidentiality of patient clinical records and shall not divulge or disclose the contents of records in a manner that identifies an individual except pursuant to court order.

(5) A health facility or agency that employs, contracts with, or grants privileges to a health professional licensed or registered under article 15 shall report the following to the department of consumer and industry services not more than 30 days after it occurs:

(a) Disciplinary action taken by the health facility or agency against a health professional licensed or registered under article 15 based on the licensee's or registrant's professional competence, disciplinary action that results in a change of employment status, or disciplinary action based on conduct that adversely affects the licensee's or registrant's clinical privileges for a period of more than 15 days. As used in this subdivision, "adversely affects" means the reduction, restriction, suspension, revocation, denial, or failure to renew the clinical privileges of a licensee or registrant by a health facility or agency.

(b) Restriction or acceptance of the surrender of the clinical privileges of a licensee or registrant under either of the following circumstances:

(i) The licensee or registrant is under investigation by the health facility or agency.

(ii) There is an agreement in which the health facility or agency agrees not to conduct an investigation into the licensee's or registrant's alleged professional incompetence or improper professional conduct.

(c) A case in which a health professional resigns or terminates a contract or whose contract is not renewed instead of the health facility taking disciplinary action against the health professional.

(6) Upon request by another health facility or agency seeking a reference for purposes of changing or granting staff privileges, credentials, or employment, a health facility or agency that employs, contracts with, or grants privileges to health professionals licensed or registered under article 15 shall notify the requesting health facility or agency of any disciplinary or other action reportable under subsection (5) that it has taken against a health professional licensed or registered under article 15 and employed by, under contract to, or granted privileges by the health facility or agency.

(7) For the purpose of reporting disciplinary actions under this section, a health facility or agency shall include only the following in the information provided:

(a) The name of the licensee or registrant against whom disciplinary action has been taken.

(b) A description of the disciplinary action taken.

(c) The specific grounds for the disciplinary action taken.

(d) The date of the incident that is the basis for the disciplinary action.

(8) The records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a health facility or agency, or an institution of higher education in this state that has colleges of osteopathic and human medicine, are confidential, shall be used only for the purposes provided in this article, are not public records, and are not subject to court subpoena.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;--Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;--Am. 1993, Act 79, Eff. Apr. 1, 1994 ;--Am. 2000, Act 319, Imd. Eff. Oct. 24, 2000 .

Compiler's Note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

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